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REMARKS

Reconsideration of the application in view of the foregoing amendments and the following discussion is respectfully requested.

Following the decision on appeal, two new grounds of rejection have been asserted, under Section 101 and 102. These new grounds of rejections are addressed below.

Allowable Subject Matter

Claims 5, 6, 14-16, 22, 27, 30-33, 45 and 46 have been allowed.

Claims Rejections - 35 USC 101

Claims 7, 8, 19, 20, 36, 37, 40 and 41 have been rejected as being allegedly directed to non-statutory subject matter. This rejection is respectfully traversed, on the grounds that a prima facie case has not been established, and the subject matter is clearly statutory.

The action provides the following reasons in support of the rejection: "The computer program's or instruction code's functionality cannot be realized without a computer-readable medium. Thus the computer program is treated as nonstatutory functional descriptive material. (MPEP 2106(I))."

The applicants note that Claims 36, 37, 40 and 41 do not include computer program or code as recited claim elements. The set of instructions set out in Claim 36 and 41 are not described specifically as machine readable or code. Claim 40 does not include any reference to instructions. Thus, on its face, this rejection cannot apply to the subject matter of these claims, and the rejection should be withdrawn.

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The Section 101 rejection should further be withdrawn because the rationale for the rejection does not contemplate a consideration of the claimed subject matter as a whole. As noted by in MPEP2106.01(I), "only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material *per se* and hence nonstatutory." None of the rejected claims is directed as a whole to a computer program or instruction code. Rather, these claims are directed to methods for servicing an inkjet printer, and thus are clearly directed to statutory subject matter.

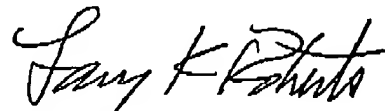
Claims Rejections - 35 USC 102

Claims 9, 12, 21, 25 and 34-44 stand rejected as being anticipated by Nguyen et al. ("Nguyen"). While applicants do not agree that the reference describes each element of the claimed subject matter, these claims are being canceled without prejudice or disclaimer of the subject matter, in order to advance this case to issue, or alternatively, reduce the issues remaining on appeal.

CONCLUSION

All outstanding rejections have been addressed, and the application is in condition for allowance. Such favorable reconsideration is solicited.

Respectfully submitted,



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